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**1 STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS**  
**DEPARTMENT OF LABOR AND TRAINING**  
**2 DIVISION OF PROFESSIONAL REGULATION**

# 3

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**PROCEEDINGS AT HEARING :**

**5 :**

**IN RE: \_\_\_\_\_ :**

**6** :

**MECHANICAL BOARD :**

7 . . . . .

8

**DATE: OCTOBER 3, 2007**

**9** **TIME: 9:00 A.M.**

**PLACE: 1511 PONTIAC AVENUE**

10 BUILDING 70

## CRANSTON, RI

11

12

## 13 PRESENT:

## STANLEY DAVIES, CHAIRMAN

## 14 TIMOTHY BYRNE

# MICHAEL CARREIRO

## 15 MICHAEL JANUARIO

# JOHN WEBSTER

16 BOBBY JOE HARRIS

CHESTER STEWART

17 RON CRONIN

TED WHITTAKER, INVESTIGATOR

18 CHARLES WRIGHT, INVESTIGATOR

BEN COPPLE, ESQUIRE

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23 RHODE ISLAND COURT REPORTING

747 NORTH MAIN STREET

24 PROVIDENCE, RI 02904

(401) 437-3366

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1 (COMMENCED AT 9:04 A.M.)

2 MR. DAVIES: Good morning. It's

3 9:04 a.m., we're going to call the Mechanical

4 Board to order. We will dispense with the meeting

5 in the beginning and go right into the cases.

6 First hearing this morning is Steven H.

7 Harvey, Quincy Sheet Metal, 3252. Mr. Whittaker.

8 MR. WHITTAKER: Date: 8/15/2007.

9 Violation No. 3252. Name of violator: Mr. Steven

10 H. Harvey, Quincy Sheet Metal, 35 Thompson

11 Blanchard Drive, Plympton, Massachusetts 02367.

12 Location of violation: CVS, Route 1-A,

13 Narragansett Rhode Island.

14 Violation: On Monday, July 30, 2007,

15 Mr. Chester Stewart, Rhode Island Department of

16 Labor & Training Mechanical Board member witnessed

17 two employees of Quincy Sheet Metal, Kenneth

18 Nelson of 3 Sixth Street, Halifax, Massachusetts,

19 and Timothy Harvey of 70 Tommy Marks Way,

20 Weymouth, Massachusetts installing sheet metal at

21 the above-mentioned address.

22 Mr. Nelson and Mr. Harvey are not

23 licensed in Rhode Island to perform this work.

24 This is two violations of Rhode Island General Law

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1 28-27-28, practices for which a license is

2 required.

3 Quincy Sheet Metal did not have a

4 mechanical permit issued by the town of

5 Narragansett. This is one violation of Rhode

6 Island General Law 28-27-20, state and municipal

7 inspections and installation permits. Signed,

8 Edward J. Whittaker, Chief Mechanical

9 Investigator.

10 MR. DAVIES: Mr. Stewart is here

11 and Mr. Harvey can you be sworn in, please.

12 STEVEN HARVEY, EDWARD WHITTAKER,

13 CHARLES WRIGHT, CHESTER STEWART

14 (SWORN)

15 MR. DAVIES: Mr. Whittaker,

16 everything you have said is true?

17 MR. WHITTAKER: Yes, it is true,

18 to the best of my knowledge.

19 MR. DAVIES: Okay. Sir, do you

20 want to step up to the table?

21 Board members, do you have any questions

22 of Mr. Whittaker's report?

23 MR. JANUARIO: Was this new

24 construction?

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1 MR. WHITTAKER: This is the brand

2 new CVS drug store located on 1-A Narragansett,

3 right near Bonnet Shores, brand new construction.

4 MR. CARREIRO: What happened after

5 the site visit, was the job stopped?

6 MR. WHITTAKER: Yes. After I

7 received the information from Mr. Stewart, I

8 proceeded down to the job site. Those two

9 individuals were not there at that time and it had

10 come to my attention that any further work on

11 there was going to be done by licensed people.

12 MR. DAVIES: Mr. Stewart, do you

13 have anything you want to add to this?

14                   MR. STEWART: Nothing, everything  
15 has been said.

16                   MR. CRONIN: Were you the  
17 mechanical contractor, or were you a sub  
18 mechanical contractor?

19                   MR. HARVEY: Sub, just the sheet  
20 metal.

21                   MR. DAVIES: Excuse me.  
22 Mr. Stewart, you're not testifying at this point.

23                   MR. WRIGHT: On advice of legal  
24 counsel.

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1                   MR. COPPLE: I think if you're  
2 going to testify and be a witness, it's probably  
3 not appropriate that you vote.

4                   MR. STEWART: Okay. I went to the  
5 job site, walked in. I looked around, I observed  
6 what the people were doing. I saw two men. I  
7 went over and asked them if they were sheet metal  
8 workers, they said they were.

9                   And I asked them who they worked for and  
10 it was Quincy Sheet Metal. And at that time, I  
11 asked for their licenses, and they were  
12 unlicensed.

13                   MR. DAVIES: Board members have  
14 any questions of Mr. Stewart? Mr. Harvey, is it?

15 MR. CRONIN: I haven't really got  
16 my question answered. Who is the mechanical  
17 contractor on this job that you were working for?

18 MR. HARVEY: L.C. Anderson Company  
19 out of Boston.

20 MR. CRONIN: L.C. Anderson?

21 MR. HARVEY: Yes. And they had a  
22 permit which I thought I was on as HVAC. This is  
23 the first job I've ever come upon in 30 years that  
24 I had to pull a permit. I really didn't know. I

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1 wasn't trying to pull a fast one.

2 I've been licensed since February and  
3 this was the first job I've done, so I really  
4 didn't know. And the guys, I know they're not  
5 supposed to be there, but I was on vacation. They  
6 were just trying to get a vent just over the  
7 bathroom so they could Sheetrock the ceiling.

8 And that's the only thing I can say.

9 I'm sorry they were there without a license, but  
10 they begged us to get something in there. And I  
11 wasn't around. My brother sent two guys down to  
12 put a vent in the bathroom, that was it. I didn't  
13 know I was supposed to have my permit displayed.

14 I'm on a mechanical permit for L.C.

15 Anderson, that's the truth. Now I've been pulling

16 permits, I've done three jobs since then, and I  
17 have a permit for every job.

18 MR. STEWART: How many licensed  
19 sheet metal workers does your company have?

20 MR. HARVEY: Three. Some of them  
21 have taken the test three times and haven't  
22 passed. We have six, we are trying to get six.  
23 Right now we only have three. He just got  
24 licensed, I think three days ago, two or three

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1 days ago.

2 That was on Thursday. I'm using him  
3 now, he's my CVS guy, he helps me. My brother  
4 actually does a lot of the measuring and running  
5 around and keeping everyone busy. He sent the  
6 guys down there, I'm sorry about that. But just  
7 to do something simple and get out.

8 And that guy has taken the test twice  
9 and he failed. So when he was approached, he just  
10 said, okay, I don't have my license, and he left.

11 He didn't explain that he was trying to  
12 take the test or anything like that. He got a 66,  
13 I think, so he still didn't pass. It is very,  
14 very hard, I think. We're trying.

15 MR. HARRIS: Have you done work  
16 before in Rhode Island, before this?

17 MR. HARVEY: No. I mean years ago  
18 before anyone said you need a license or anything  
19 like that.

20 MR. DAVIES: Any other board  
21 members have any questions of Mr. Harvey?

22 MR. CARREIRO: No. I just hope  
23 CVS pharmacists will do better on their tests.

**24 MR. DAVIES: Any other questions?**

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1 Gentlemen, do I have a motion on Case No. 3252 as  
2 to a violation?

3 MR. CARREIRO: Mr. Chairman, I'd  
4 like to make a motion with regards to Violation  
5 3252, based on the testimony that we've heard,  
6 based on the written testimony presented, I'd like  
7 to make a motion that Steve H. Harvey, Quincy  
8 Sheet Metal, did indeed violate 28-27-28 in two  
9 instances. And further, that they did violate  
10 28-27-20 in one instance. I make this in the form  
11 of a motion.

12 MR. DAVIES: Do I have a second on  
13 that motion?

14 MR. WEBSTER: Second.

15 MR. DAVIES: Seconded. All those  
16 in favor, aye? Opposed? So voted.

17 Now, do I have a motion as to the fines



18 on 28-27-24 on Case No. 3252?

19 MR. CARREIRO: Mr. Chairman, with  
20 regards to Violation 3252, I make a motion that we  
21 uphold the fines per Rhode Island General Law  
22 28-27-24, three violations at \$500 each.

23 MR. DAVIES: Do I have a second?

24 MR. WEBSTER: Second.

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1 MR. DAVIES: All those in favor?

2 Opposed. So voted. Sir, you will be getting a  
3 letter from the Director of Labor as to our  
4 findings.

5 On the record, Mr. Stewart did not vote  
6 because he was involved. Okay, sir, thank you.

7 Next case before the board is Case No. 3255,  
8 Mr. Joseph Francis Jr.; is he here or is somebody  
9 representing the company?

10 MR. WRIGHT: Mr. Chairman.

11 Mr. Francis has indicated to us, actually the  
12 person that was going to be testifying,  
13 Mr. Christopher Fonseca, that he would not be  
14 available for this meeting and they asked for a  
15 postponement, which was granted, to the  
16 November 7th meeting.

17 MR. DAVIES: Is this Mr. Francis?

18 MR. FRANCIS: Yes.

19 MR. WRIGHT: Didn't you ask?

20 MR. FRANCIS: I didn't ask for

21 one, no.

22 MR. WRIGHT: No, Mr. Fonseca did.

23 Didn't we send a letter? Yes.

24 MR. FRANCIS: I never got a notice

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1 saying that.

2 MR. WRIGHT: We sent out, and I

3 can go to our clerical, a letter was sent out

4 noticing that it was.

5 MR. FRANCIS: This is the only one

6 I have, a certified letter, right here. It didn't

7 say anything about that.

8 MR. CARREIRO: Mr. Chairman, I'm

9 going to make a motion to continue. Mr. Chairman,

10 I would like to make a motion to continue.

11 THE CHAIRMAN: Do I have a second?

12 MR. WEBSTER: I'll second it.

13 MR. DAVIES: All those in favor?

14 Opposed? Sir, be sworn in, please. Okay, you'll

15 have to come back.

16 The next case is Case No. 3198, ST Smith

17 Heating & Air Conditioning; is someone here

18 representing the company?

19 MR. EMMA: Yes. Steve was here,

20 but he wasn't feeling good. I'm here to represent  
21 him.

22 MR. COPPLE: Are you a lawyer?

23 MR. EMMA: No.

24 MR. COPPLE: Are you an employee

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1 of the company?

2 MR. EMMA: Officer of the company,  
3 Steven's company.

4 MR. COPPLE: Okay.

5 ANTHONY EMMA

6 (SWORN)

7 MR. DAVIES: Mr. Whittaker, would  
8 you read the Case No. 3198, please.

9 MR. WHITTAKER: Date --

10 MR. CARREIRO: Just for the  
11 record, this is against Smith HVAC Heating & Air  
12 Conditioning?

13 MR. WRIGHT: Yes.

14 MR. CARREIRO: And Mr. Emma?

15 MR. WRIGHT: Is the license holder  
16 of record.

17 MR. CARREIRO: Thank you. Just  
18 for the record, I don't see his name on the  
19 report.

20 MR. WHITTAKER: Date: 6/11/2007.

21 Violation No. 3198. Name of violator: S.T. Smith  
22 Heating & Air Conditioning, 30 Starline Way,  
23 Cranston, Rhode Island 02921. Location of  
24 violation: 390 Shippee Road, East Greenwich.

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1 Violation: On May 30, 2007, Rhode  
2 Island Department of Labor & Training Investigator  
3 Charles Wright received a complaint from Maury  
4 Hager of the above-referenced address.

5 On May 17th, 2007, Mr. Steven Smith, a  
6 technician of S.T. Smith Heating & Air  
7 Conditioning went to the above-referenced address  
8 to service the air conditioning unit.

9 The Department of Labor & Training  
10 records do not indicate that Mr. Smith is licensed  
11 to do refrigeration work. This is a violation of  
12 Rhode Island General Law 28-27-28, practice for  
13 which a license is required.

14 S.T. Smith Heating & Air Conditioning  
15 does not have a refrigeration master license  
16 within its corporation. This is one violation of  
17 Rhode Island General Law 28-27-6, corporations and  
18 firms engaged in business. Rhode Island General  
19 Law 28-27-24 violation of \$1,900. Signed, Charles  
20 W. Wright, Investigator.

21 MR. WRIGHT: Board members, the

22 person that issued the complaint to me was a Maury  
23 Hager. We did send, I don't believe he's --  
24 seeing everybody here, that he's present. He was  
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1 properly notified by certified mail and regular  
2 mail. Why he's not here, I don't know.

3 But I took the complaint. And at the  
4 time when I checked the records, Mr. Steven Smith  
5 did not have a refrigeration license. And in the  
6 frame of corporation at that time did not have an  
7 AC license, refrigeration license either. This  
8 was at the time of the violation.

9 You will notice on the top the date on  
10 it was 6/11/2007. And the violation was on  
11 May 30, 2007.

12 MR. DAVIES: Board members have  
13 any questions of Mr. Whittaker or Mr. Wright?

14 MR. CARREIRO: Mr. Wright, was  
15 there a permit pulled for this project?

16 MR. WRIGHT: I think they were  
17 just doing servicing work on the AC unit.  
18 Probably no permit was needed, sir.

19 MR. BYRNE: Maury Hager, he's the  
20 homeowner?

21 MR. WRIGHT: Yes.

22 MR. DAVIES: Any other questions

23 of Mr. Wright or Mr. Whittaker?

24 Okay. Sir, would you like to address

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1 the board. Mr. Emma.

2 MR. FRANCIS:

3 MR. EMMA: Yes. It was my

4 understanding that -- first of all, I am working

5 for Mr. Smith and I do have a master mechanical

6 license with the company. I'm an officer of the

7 company. I retired probably about five or six

8 months ago.

9 MR. JANUARIO: But at the time of

10 this violation, you were not working for him?

11 MR. EMMA: I was working for him.

12 MR. JANUARIO: Were you an officer

13 of the company?

14 MR. EMMA: Yes. But neither here

15 nor there, Steven went down there himself and it

16 was basically an insurance protection program. It

17 was American Home Shield that called in the call.

18 They called in an air conditioner call. They just

19 called in a call that they had no heat or air

20 conditioning or what-have-you.

21 He went down there to evaluate. I have

22 the guidelines on procedures of American Home

23 Shield. And their procedure is for a technician

24 to go down, evaluate the problem, and then call,  
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1 to come back to the offers to call in for  
2 authorization, if it was covered or noncovered  
3 item. And the cost, whatever the cost is, to call  
4 it into authorization to get an authorization if  
5 any work would be done. No work was performed on  
6 the job whatsoever.

7 And apparently, Steven went down there,  
8 the cover was off the unit, the homeowner had, in  
9 fact, had someone else down there, from what I  
10 understand. I wasn't there in person. And he  
11 looked at the unit and he found that the  
12 electrical tape was melted.

13 And he turned to the homeowner, he said,  
14 it's nothing to do with the unit, the tape is  
15 melted, there is tar around the wires, whatever  
16 the situation was.

17 He proceeded to walk to his truck. The  
18 homeowner started badgering him. He was hollering  
19 at him, telling him he didn't know what he was  
20 talking about. And obviously Steven got to a  
21 point where he turned around and he said to him,  
22 "I don't have to take any of your abuse."

23 Obviously he must of had words back with  
24 him. He got in his truck and left. So how he

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1 ends up with a violation or a fine, I don't  
2 understand. But that is the gist of what I know.

3 MR. DAVIES: Board members have  
4 any questions of Mr. Emma?

5 MR. CARREIRO: Was this considered  
6 a service call?

7 MR. EMMA: Well, we go down and  
8 take an evaluation of it, yes. And the homeowner  
9 is responsible to pay a service charge. If he  
10 doesn't pay the service charge, we will call Home  
11 Shield and we will directed towards --

12 MR. CARREIRO: So an unlicensed  
13 man was diagnosing a problem?

14 MR. EMMA: As far as mechanical  
15 contractor goes?

16 MR. CARREIRO: No. For that  
17 issue.

18 MR. EMMA: Well, Steven is  
19 licensed. He doesn't have a master mechanical.

20 MR. JANUARIO: He doesn't have a  
21 refrigeration?

22 MR. EMMA: No.

23 MR. CARREIRO: What initiates the  
24 call?

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1           MR. EMMA: We get the -- the  
2 homeowner calls Home Shield. American Home Shield  
3 will send a fax out or a call to the office, give  
4 us a reference number, and we just dispatch a  
5 technician there to take an evaluation.

6           MR. BYRNE: So that American Home  
7 is really a dispatching group?

8           MR. EMMA: Yes.

9           MR. STEWART: You said it was an  
10 air conditioning problem?

11           MR. EMMA: I never saw the fax.  
12 They said that apparently they had no heat or air  
13 conditioning or combination, we didn't know what  
14 it was, you know.

15           MR. WEBSTER: What kind of license  
16 does Mr. Smith hold?

17           MR. EMMA: Just a mechanical  
18 license, maybe two.

19           MR. WRIGHT: Mr. Smith has an  
20 apprentice card as a pipe fitter and he owns PJF  
21 Oil.

22           MR. WEBSTER: Was he there at the  
23 time? Was he on the job at that time?

24           MR. WRIGHT: From the report from

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1 Mr. Hager, yes. He was there with another person,

2 and Mr. Hager did not know the person's name. But  
3 he was checking on the licensing for Mr. Smith.  
4 Mr. Smith, as I reported, was not licensed to do  
5 air conditioning work.

6 MR. BYRNE: PJF and what?

7 MR. WRIGHT: He's an apprentice  
8 pipe fitter.

9 MR. BYRNE: Apprentice pipe  
10 fitter. That's the only license?

11 MR. WRIGHT: Yes.

12 MR. DAVIES: His uncle was also  
13 working there, it appears, Tom Zompa.

14 MR. EMMA: Tom Zompa, he's got a  
15 pipefitters license too. We got a copy of it.

16 MR. CARREIRO: There was somebody  
17 else on the job?

18 MR. EMMA: Who went down on the  
19 call? Steven --

20 MR. CARREIRO: I thought you said  
21 somebody else was on the job?

22 MR. DAVIES: Prior to this.

23 MR. EMMA: The homeowner had  
24 called his own person. I don't know who it was.

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1 MR. STEWART: Who was the  
2 technician that was with Mr. Smith?

3 MR. EMMA: I really don't know.

4 MR. JANUARIO: I thought you just  
5 said it was his son?

6 MR. EMMA: No. That's his uncle,  
7 he's also a --

8 MR. JANUARIO: He wasn't working  
9 with Mr. Smith on the call?

10 MR. EMMA: No, he wasn't.

11 MR. STEWART: How many technicians  
12 does your company have?

13 MR. EMMA: He has six.

14 MR. DAVIES: Any other questions  
15 of Mr. Emma or Mr. Wright? Do I have motion on  
16 Case No. 3198 as to a violation?

17 MR. BYRNE: Mr. Chairman, I'll  
18 make a motion pertaining to Case 3198 that a  
19 violation did occur.

20 MR. DAVIES: Do I have a second?

21 MR. WEBSTER: I'll second.

22 MR. DAVIES: All those in favor?  
23 Opposed? So voted. Do I have motion on the fine  
24 on 28-27-24?

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1 MR. JANUARIO: I will make a  
2 motion on Violation 3198 that we uphold the fine  
3 for Rhode Island General Law 28-27-24.

4 MR. DAVIES: Do I have second?

5 MR. CARREIRO: Second.

6 MR. DAVIES: All those in favor?

7 You'll be receiving a letter from the Director of  
8 Labor as to our findings to her and she'll make a  
9 final decision.

10 MR. EMMA: Okay. I appreciate it.

11 Thank you.

12 MR. WRIGHT: Board members, the  
13 next four violations, Gem Heating & Plumbing, Case  
14 Nos.3241, 3168, 3192, and 3195 have been postponed  
15 to the November meeting.

16 MR. CARREIRO: At the request of?

17 MR. WRIGHT: Legal.

18 MR. CARREIRO: Their counsel?

19 MR. WRIGHT: Yes.

20 MR. CARREIRO: Okay.

21 MR. WRIGHT: Which was granted.

22 MR. CARREIRO: No. It has to be  
23 granted here, doesn't it? I beg to differ. We  
24 are acting on an agenda item here. Now, to  
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1 dispose of an agenda item, we either take no  
2 action or continue.

3 MR. D'AMBRUOSO: Mr. Chairman,  
4 that was a direct order from the director.

5 MR. CARREIRO: Yes.

6 MR. D'AMBRUOSO: -- supercedes the  
7 board.

8 MR. CARREIRO: No. We are to  
9 operate, this is a -- under the Open Meeting Law,  
10 we have an agenda item, we have to take action on  
11 the agenda item. If there's a request to continue  
12 and there's documentation to continue, we vote on  
13 it. But just to -- a director cannot tell us to  
14 not take action on an agenda item.

15 MR. D'AMBRUOSO: I'm not telling  
16 you not to take action on the agenda item. That  
17 agenda item should not have been put on there. It  
18 should have been crossed off there, that's number  
19 one.

20 Number two, the attorney was unavailable  
21 to be here at this present time. And we always  
22 allow an attorney the opportunity to be before  
23 council.

24 MR. CARREIRO: I'm not just

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1 debating that. I'm just debating that when we  
2 take action on an agenda item, we have to take a  
3 vote to do it. We can't get directed by anybody.  
4 It's a request from the director.

5 MR. D'AMBRUOSO: That item should

6 not have been on there.

7 MR. CARREIRO: I'm not debating  
8 that. There is sufficient data to ask for a  
9 continuation?

10 MR. WRIGHT: Yes.

11 MR. CARREIRO: I make a motion  
12 that we continue 3241, 3168, 3192, and 3195 to the  
13 November meeting.

14 MR. DAVIES: Do I have second on  
15 that?

16 MR. STEWART: I'll second.

17 MR. DAVIES: All those in favor?  
18 Opposed? So voted.

19 MR. WRIGHT: Board members, also  
20 on the last item, Michael Vizzacco, that came in  
21 late. The person would not be available for  
22 whatever reason he gave and asked for a  
23 continuance also to the November 7th meeting to be  
24 continued also.

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1 MR. CARREIRO: Do we have  
2 documentation for that?

3 MR. WRIGHT: Yes, we do.

4 MR. CARREIRO: I would ask the  
5 Chairman to make a motion with regards to  
6 Violation 3235 that we continue that to the

7 November meeting.

8 MR. DAVIES: Do I have a second?

9 MR. WEBSTER: Second.

10 MR. JANUARIO: Second.

11 MR. DAVIES: All those in favor?

12 It will be continued.

13 MR. CARREIRO: Motion to close the  
14 hearing.

15 MR. DAVIES: Do I have a second?

16 MR. WEBSTER: Second.

17 MR. DAVIES: All those in favor?

18 Opposed? Okay, we're all set with the hearings.

19 (CLOSED AT 9:30 A.M.)

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1 C E R T I F I C A T E

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5 I, Claudia J. Read, Notary Public, do hereby  
6 certify that I reported in shorthand the foregoing  
7 proceedings, and that the foregoing transcript

8 contains a true, accurate, and complete record of  
9 the proceedings at the above-entitled hearing.

10

11 IN WITNESS WHEREOF, I have hereunto set my  
12 hand this 8th day of October, 2007.

13

14

15

16

17 CLAUDIA J. READ, NOTARY PUBLIC/CERTIFIED COURT  
REPORTER

18 MY COMMISSION EXPIRES NOVEMBER 2, 2008.

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